HUSTON

BY THE COMPTROLLER GENERAL

Report To The Congress

OF THE UNITED STATES

Alternatives for Achieving Greater Equities in Federal Land Payment Programs

A variety of land payment programs have evolved over the years to compensate States and counties for tax exemptions on Federal land within their jurisdiction. GAO reviewed programs in eight western States where 80 percent of the Federal land payments are made and found many inequities and inconsistencies.

Public Law 94-565, passed in 1976, contributes to these inequities by:

--allowing States to influence the size of Federal payments to local governments,
--requiring the administering agency to use State data which has been unreliable for computing payments, and
--providing payments to counties that were already being compensated without them.

This report evaluates several alternatives to the current payment system and recommends that the Congress change the laws to require computation of payments on a tax equivalency basis--i.e., amounts equal to taxes if the land were privately owned.

PAD-79-64
SEPTEMBER 25, 1979

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-167553

To the President of the Senate and the
Speaker of the House of Representatives

This report presents our assessment of the various land payment programs which compensate States and counties for lost tax revenue on Federal land. We focused our efforts on the land payment programs in eight western States which receive the majority of the Federal payments. In particular, our analysis centered on the recently enacted Public Law 94-565.

We did not obtain formal comments from officials of the Department of Interior. Instead, we met with officials in its Bureau of Land Management who are responsible for managing the Public Law 94-565 program, and their comments were considered in the report.

This report contains our recommendations to the Congress for providing a more equitable basis for land payments. It also makes recommendations to the Bureau of Land Management regarding adjusting prior years' payments and correcting administrative problems.

We are also sending this report to the Secretaries of the Department of the Interior, the Department of Agriculture, the Department of Defense, the Governors of the eight States included in our analysis, and other interested parties.

Comptroller General
of the United States

COMPTROLLER GENERAL'S
REPORT TO THE CONGRESS

ALTERNATIVES FOR ACHIEVING GREATER EQUITIES IN FEDERAL LAND PAYMENT PROGRAMS

D I G E S T

Under various land payment programs the Federal Government compensates States and counties for lost revenue on the approximately 760 million acres of tax-exempt Federal land. During fiscal year 1978 the programs paid States and counties about $610 million.

GAO reviewed these programs in eight Western States where about 80 percent of the Federal land payments were made to determine the reasonableness of the compensation under various programs.

The basic aim of Congress in enacting these programs was to compensate States and counties for lost tax revenues and the economic burdens of tax-exempt Federal land. As the laws were designed and implemented, most programs pay States and counties a percentage of the annual receipts generated from the public lands, rather than on the basis of equivalent taxes that would have been paid if the land were privately owned. Because the payment percentages, which range from 5 to 90 percent, bear no relationship to tax equivalency, States and counties do not receive equitable payments. Many States and counties are overpaid compared to tax equivalency, while others receive little or no payment.

The Public Land Law Commission recommended in 1970 that counties receive one payment rather than a number of payments under the various receipt-sharing programs. The Congress, however, decided not to repeal the Federal land payment programs and, instead, in 1976 passed Public Law 94-565 which directs payments to counties on a per-acre basis, to be reduced by payments received by these counties under the 10 programs listed in section 4 of this act. Nevertheless, some counties that already received more in land

payments than they would have in taxes for the same land received an additional bonus.

In six of the eight Western States that we reviewed, States and counties received $187.3 million or an average of $1 more an acre from Federal land payments than they would have received on a tax equivalent basis. Land payments have grown from about $264 million in 1975 to about $610 million in 1978 because of increased income from Federal lands and congressionally mandated increases in the percentages paid. Federal land receipts are likely to continue increasing in future years.

In revising Federal land payments laws, the Congress may find it useful to consider alternatives to the type of receipt-sharing approach now used, such as fee per acre, other types of receipt sharing, fee for service, and tax equivalency. The alternatives and the corresponding methods of payment that would be involved are explored in chapters 4 and 5.

RECOMMENDATIONS TO THE CONGRESS

GAO believes the most logical rationale among the alternative payment programs is tax equivalency. This method of payment is feasible. GAO therefore recommends that the Congress should change the laws to require payments on a tax equivalency basis. Such changes should eliminate the permanent earmarking of receipts, set an expiration date on program authorization, and require periodic appropriation action. To lessen the impact to those counties that currently receive large receipt-sharing payments, the phasing out of the programs should be done over a number of years.

If the Congress eliminates or amends Public Law 94-565 by adopting a tax equivalency basis for payments or another alternative, many of the problems and inequities caused by the act would be solved. If, however, the Congress decides to continue receipt-sharing payments and acreage payments under

Public Law 94-565, it should take action to correct several weaknesses.

The act allows States to influence the size of Federal payments to local governments. This results from the act's payment formula which provides that only selected receipt-sharing payments passed directly through to local governments are to be used to reduce payments under Public Law 94-565. State influence under this provision reduces congressional budgetary control and creates serious inequities among the local governments receiving payments.

Another weakness is that the act requires the Bureau of Land Management to interpret vague terms and to use State data which has been unreliable for computing acreage payments. In the eight States GAO reviewed, incorrect payments totaled about $18 million for fiscal years 1977 and 1978.

To correct these weaknesses in the law Congress should amend it so that:

--payments under the law are disassociated from receipt-sharing payments; or

--deductions for receipt-sharing payments are allocated to counties where receipts were earned; or

--deductions for receipt-sharing payments are allocated to counties based on population or some other allocation method.

Another weakness in the law is the provision for additional payments to counties that were already being compensated under receipt-sharing programs. For example, 18 Oregon counties that received over $106 million in receipt-sharing payments for fiscal year 1977 also received Public Law 94-565 payments totaling over $800,000.

To correct this problem GAO recommends the minimum payment provision be deleted. In addition, the Congress should delete special provisions for Oregon and California grant lands and Coos Bay Wagon Road grant lands

(section 5 of the act), and include payments under those exempted statutes as deductible payments under section 4 of the act. This action is necessary to avoid making further acreage payments to counties that already receive unusually large receipt-sharing payments.

AGENCY COMMENTS AND ACTIONS

Concerning the administrative problems of computing acreage payments under Public Law 94-565, the Bureau of Land Management officials responsible for administering this program agreed that the act should be amended so that the payment program can be administered more effectively, efficiently, and equitably. They stated that even though they are aware of the unreliability of State-provided data on which payments are based, they do not have the legal authority, staff, or funding to audit State reports.

The Bureau also recognizes that for fiscal years 1977 and 1978 it made incorrect payments nationwide. Adjustments are being made on a first-come-first-served basis. The Bureau did not, however, encourage States to pursue adjustments for 1977 because sufficient funds were not available.

RECOMMENDATIONS TO THE BUREAU OF LAND MANAGEMENT

To make corrections in past payments, the Bureau of Land Management should take steps to validate receipt-sharing deductions for fiscal year 1977 and 1978 payment computations to all States except for the eight States GAO reviewed. GAO has already given the Bureau correct data on those States. A procedure for validating State reports for the 1979 payments also should be established. If the Bureau cannot accomplish all verification work with its resources, it should request assistance from the Department of the Interior. In proposed fiscal year 1980 appropriations

for BLM, the House recommended that $115,000 be used for auditing State data.

The magnitude of adjustments required to correct fiscal year 1977 and 1978 payments indicates that the Bureau's first-come-first-served approach does not follow the congressional intent of providing equitable payments to each State within the appropriation ceiling. On the contrary, it has contributed significantly to subsequent legislation that allows adjustments out of the succeeding year's appropriation. Thus, GAO recommends that the Bureau seek legislative authority to adjust underpayments for preceding fiscal years out of current fiscal year appropriations. With this authority, BLM could make future adjustments by determining what each county should have received for fiscal years 1977 and 1978 based on correct data and then by prorating any appropriation deficit among recipients. Fiscal year 1979 payments should then be adjusted so that each county receives the proper (prorated) total payment for the 3-year period.

Contents

CHAPTER 1

INTRODUCTION

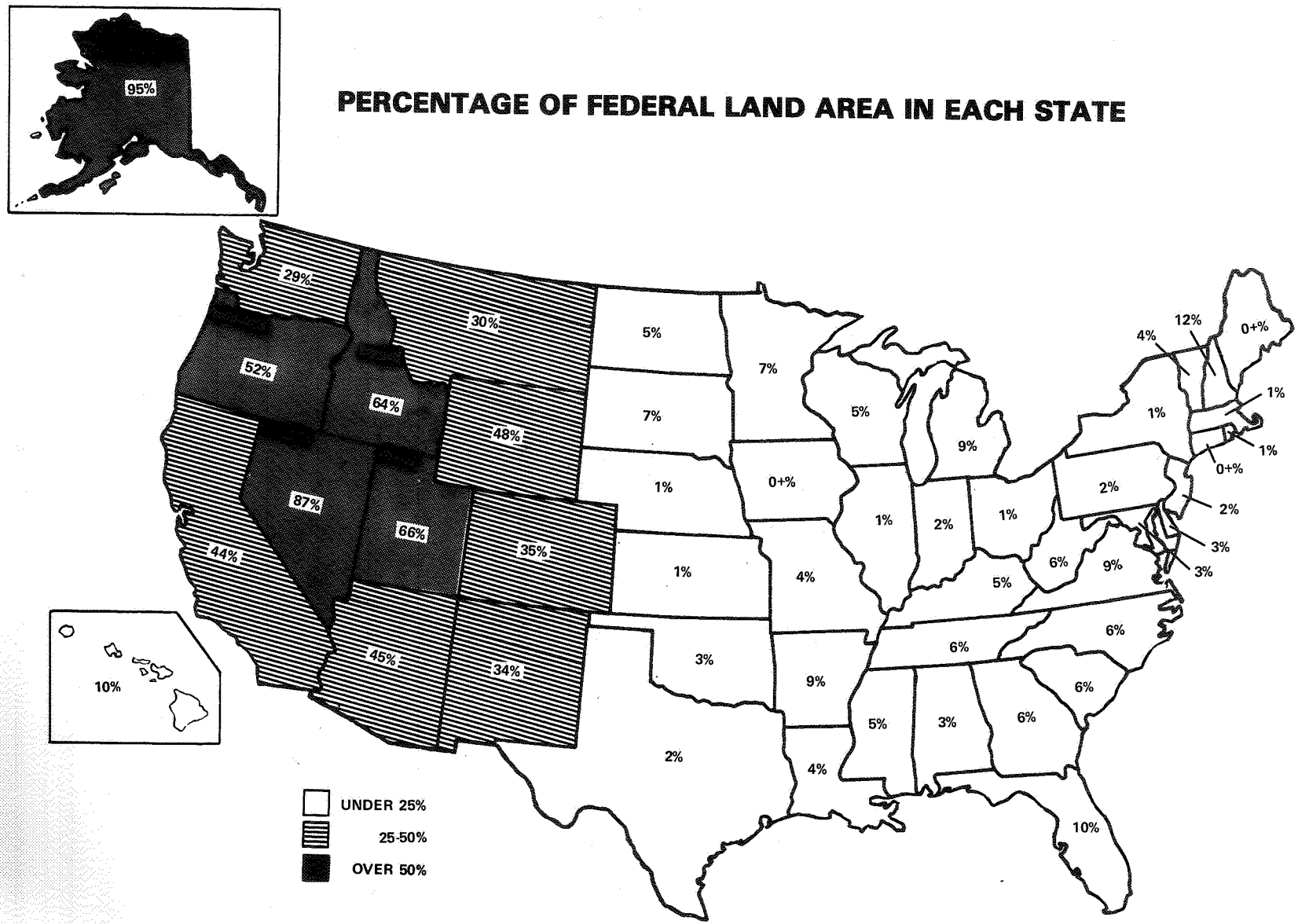
Because approximately 760 million acres of federally-owned land in the United States are exempt from State and local taxes, Congress has passed legislation providing payments to the States and local governments where Federal land is located. In October 1976, Congress passed another piece of such legislation, Public Law 94-565, to further compensate counties in which Federal land is located. The combined public lands payment programs provided over $610 million to States and counties in fiscal year 1978.

This report points out the need for unified and consistent methods of paying States and counties for public lands. It discusses the problems and inequities caused by current requirements to relate receipt-sharing programs to a national acreage payment program. It also discusses the fact that Federal payments often exceed taxes on comparable private land, and gives alternative methods of making payments.

MAGNITUDE AND LOCATION OF FEDERAL LAND

About 760 million acres, or roughly one-third of the United States, are federally owned. Almost one-half of these lands is located in Alaska. Excluding Alaska, over 90 percent of these lands is located in the 11 Western States. But Federal land ownership is also important to other parts of the country. All 50 States and approximately 1,000 counties have federally-owned land within their boundaries. The percentage of Federal land in each State is shown on the following page.

The lands are, for the most part, managed by two agencies of the Federal Government: the Bureau of Land Management of the Department of the Interior and the Forest Service of the Department of Agriculture. Smaller but significant acreages are administered by the Department of Defense, and the Fish and Wildlife Service and the National Park Service of the Department of the Interior.


PERCENTAGE OF FEDERAL LAND AREA IN EACH STATE
95%
29%
30%
5%
7%
52%
64%
48%
7%
1%
0+%
87%
66%
35%
1%
4%
44%
45%
34%
3%
9%
2%
4%
10%
5%
7%
5%
9%
4%
12%
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6%
9%
3%
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5%
6%
6%
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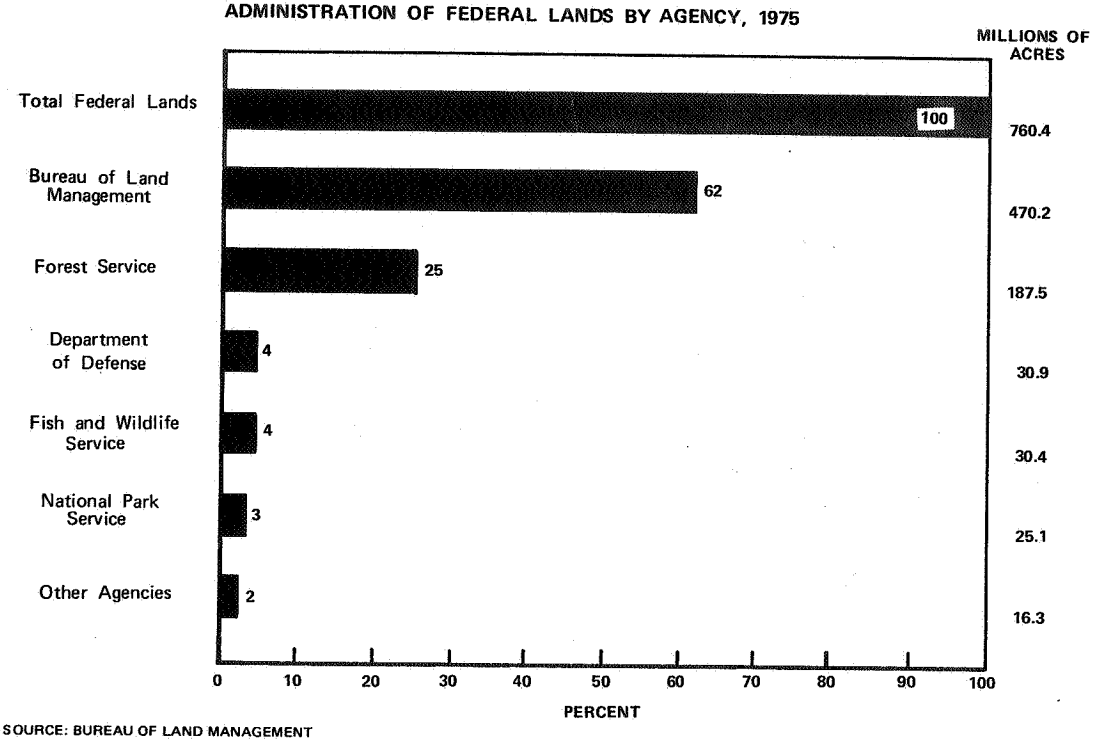
6%
10%
UNDER 25%
25-50%
OVER 50%

ADMINISTRATION OF FEDERAL LANDS BY AGENCY, 1975



SOURCE: BUREAU OF LAND MANAGEMENT

PUBLIC LAND PAYMENT PROGRAMS

Federal lands affect State and local governments in several ways. In most cases fewer services are provided for public lands and installations by State and local governments than are provided for private lands. Further, public lands often attract considerable revenue-producing commerce. On the other hand, since public lands are not directly taxable, their presence--especially if their acreage is sizable--serves to reduce the property tax base of local governments. To compensate States and local governments for the loss of tax revenue from federally owned lands in their jurisdictions, Congress has established a number of receipt-sharing programs which permanently earmark revenue into special fund accounts. In fiscal year 1978, more than $610 million was paid to State and local governments under these programs. A breakdown by State of these Federal land payments is contained in appendix III.

The largest receipt-sharing program, the 1908 National Forest Revenue Act, returned $224 million to the States in fiscal year 1978. This act provides to States payments of 25 percent of annual National Forest receipts, to be directed to the counties where the receipts are generated, for support of schools and roads. Prior to fiscal year 1977, each county's share was computed on the net proceeds to the Federal

Government after deducting road construction costs incurred by timber purchasers. The 1976 National Forest Management Act greatly increased the payments to counties by changing the formula so that these deductions are no longer made and counties now receive 25 percent of the gross receipts.

Another receipt-sharing program, the 1920 Mineral Lands Leasing Act, returned about $175 million to the States in fiscal year 1978. Originally this act returned 37.5 percent of the revenues collected from the development of federally-leased mineral bearing land to the States, except in Alaska where a greater percentage of oil and gas revenues was returned. These monies were to be used for schools and roads as the State legislatures directed. Then in a 1976 amendment to the act, the Congress increased the 37.5 percent returned to 50 percent, and loosened restrictions on the use of the funds. Under the amended act, the funds can be used by the legislatures of the States for any governmental purpose; the amended act now requires only that priority be given to those subdivisions of the States adversely impacted socially or economically by the development of minerals leased under the act.

The Taylor Grazing Act also provides for significant receipt-sharing payments, especially to the Western States. Under this act, 12.5 percent of the receipts from designated grazing districts and 50 percent of the receipts from other grazing lands are paid to the State of origin. In fiscal year 1978, about $3 million was paid to States. The payments must be used to benefit the county where the receipts were generated.

Two other receipt-sharing laws cover land that the Federal Government reacquired from private ownership. Under one of these laws, 18 Oregon counties receive 50 percent of the revenue from timber sales on Oregon and California revested railroad land. In fiscal year 1978, $106 million were paid to the 18 counties for these lands. Two of these counties have similarly revested lands covered by a second law, the Coos Bay Wagon Road revested lands, where payments are based on tax equivalence. Payments to these two counties amounted to about $1.9 million in fiscal year 1978. Several other receipt-sharing programs provide public land payments; but the amounts paid to States and local governments for these programs have been comparatively small. (See appendix I for a listing of payment programs for public lands).

Public Law 94-565
(Local government units)

With the passage of Public Law 94-565 in 1976, Congress established a system of payments to local governmental units on the basis of the amount of certain entitlement lands within the local unit. Entitlement lands for fiscal year 1978 totaled approximately 430 million acres or 57 percent of all federally owned land. Initially those entitlement lands included the National Park Service, National Forest Service, and Bureau of Land Management lands as well as lands used for water resources development and dredge disposal under the Army Corps of Engineers. $100 million was appropriated for fiscal year 1978 for local government payments under the provisions of this Bureau of Land Management administered act.

Under Public Law 94-565's payment formula, local governments can receive up to $0.75 an acre for entitlement lands, subject to a ceiling based on a population formula. The legislation requires that a local government's $0.75 an acre maximum payment be reduced by payments received under 10 receipt-sharing programs. However, the legislation provides for a minimum payment of $0.10 an acre regardless of the amount received under other programs and subject only to a ceiling based on population. In addition, Section 3 of the act bases payments to local governments on a percentage of the fair market value of lands acquired for the National Park System or National Forest Wilderness areas which were subject to local property tax prior to acquisition.

This act was amended in October 1977 by Public Law 95-469. The amendment increased entitlement lands to include certain inactive and semiactive military installations, certain national wildlife reserve areas, and certain lands acquired by States for donation to the Federal Government. It also provided, though, that payments received by local governments under the Refuge Revenue Sharing Act be used to reduce Public Law 94-565 payments. After projecting these adjustments, the Congressional Budget Office has estimated that the cost of added payments under the amendment will be $3.3 million in fiscal year 1980 and $12.0 million in fiscal year 1983. These estimates assume that Congress will increase total program appropriations to cover maximum payments under the act's payment formula.

SCOPE OF REVIEW

The data in this report is based on extensive fieldwork in eight Western States--California, Colorado, Montana, Nevada, New Mexico, Oregon, Utah, and Wyoming. These States

were selected because of the large percentage of federally-owned land and the relatively high public land payments. We and officials from each of these State governments discussed property and severance 1/ taxation, State reporting for acreage payments, and alternatives to the present methods of public land payments.

Discussions also were held with officials of the Bureau of Land Management, Department of the Interior, and Forest Service, Department of Agriculture. In addition, we reviewed legislation, congressional hearings, data and records, and other materials pertaining to Federal land payment programs.

Our audit was coordinated with the Department of the Interior Inspector General's office. A draft of this report was discussed extensively with Bureau of Land Management officials at the Director's level. Oral comments from them and from officials in Interior's Solicitor's Office have been incorporated, where appropriate, into this report.

1/Severance tax is paid on the value of the harvest or mineral extracted and does not replace property taxes.

CHAPTER 2

INCONSISTENCIES AND INEQUITIES IN FEDERAL LAND PAYMENTS TO STATES AND COUNTIES

Payments made to compensate States and counties for tax-exempt Federal land are not consistent or equitable because of the payment methods used. As a result, many counties are paid more under these programs than they would receive if the lands were privately held. For example, in six of the eight States we reviewed, States and counties received $187.3 million more from Federal land payments than they would have received on a tax equivalent basis. As more revenue is generated by the increased development of resources on Federal lands and the continued rise of resource sales prices, even further inequities will likely result.

INCONSISTENCIES AND INEQUITIES IN RECEIPT-SHARING PROGRAMS

Federal receipt-sharing programs do not equitably serve the Congress' primary aim or rationale to reimburse States and counties for lost tax revenue and the economic burdens of tax-exempt Federal land. As the laws were designed and implemented, most of the programs pay a percentage of the receipts generated annually from the Federal lands, rather than on the basis of equivalent taxes that would have been paid if the land were privately owned, and are permanently authorized without payment limits. As shown in table 1, the percentage of receipts shared varies from 5 to 90 percent depending on the program.

Table 1

Percentage of Receipts Paid and Payments Made During Fiscal Year 1978

Program	Percentage of receipts distributed to States or counties	Payments made to States or counties in FY 1978
Minerals		
Alaska BLM only	90	$ 1,079,227
Other BLM land	50	174,053,916
Grazing		
Outside grazing districts	50	1,249,908
Inside grazing districts	12.5	1,786,956
Bankhead-Jones lands	25	1,316,726
National grasslands	25	405,427
Materials		
BLM land	5	550,501
Forest Service land	25	224,098,352
Revestment Land		
Oregon-California Railroad	50	106,045,424

Because of these different percentages and variations in land productivity, some local governments receive large payments while others receive little or no payment. Many local governments, though, receive larger payments under the receipt-sharing programs than they would receive in property taxes for the same land if it were privately owned. Few business operations pay anything like 25 to 50 percent of their gross sales for property taxes, but local governments commonly receive 25 percent or more of the total receipts generated on federally-owned lands.

Under the mineral royalty program States and counties can receive both Federal payments and taxes. The Federal Government rebates 50 percent of the total mineral royalty

revenues to the States (Alaska receives 90 percent) where the public lands generating the revenue are located. Notwithstanding these royalty payments, leaseholders of oil and mining operations on Federal lands often pay the same State severance and county property taxes they would pay if the operations were on private lands. This was the case in most of the States covered by our review. Thus, while States and county governments in these States lost nothing in oil and mineral taxes from leaseholders, they also received 50 percent of Federal mineral royalty receipts. Federal royalty receipts received during fiscal year 1978 resulted in the following payments:

Table 2

Federal Mineral Royalty Payments

State	Payment based on 50 percent of mineral royalty
California	$10,039,430
Colorado	15,970,528
Montana	7,082,262
Nevada	3,886,359
New Mexico	53,618,160
Oregon	215,944
Utah	9,640,100
Wyoming	65,606,826

Public Land Law Review Commission recommendation make one payment based on tax equivalency

Congress established the Public Land Law Review Commission in 1964 to review public land laws and recommend revisions. The Commission's report issued in June 1970 concluded that the current receipt-sharing system was not equitable.

The Commission recommended replacing it with a system to assess public lands and to provide payments to the States based on the lands' assessed value for property taxes. The Commission believed, however, that payments should be reduced in recognition of the economic benefits which accrue to local governments from the presence of public lands.

The Commission recommended replacing the numerous current receipt-sharing statutes with one payment based on tax equivalency. However, recognizing that under a single-payment system State income might be significantly less than under existing programs, the Commission recommended that receipt-sharing payments be gradually phased out over a period of years.

The Congress, however, did not replace the existing statutes with a single system based on tax equivalency. The Congress decided assessing all public lands would be "an expensive, cumbersome, and lengthy process which could result in innumerable disputes."

Instead, Congress passed Public Law 94-565 to assure that all local governments were compensated for the burdens placed on them by the presence of public lands. The basic Public Law 94-565 payment for a local government unit is arrived at by multiplying the number of federally-owned acres of entitlement lands in the local government's boundaries by a flat rate of 75 cents an acre (subject to limits based on population) and then by deducting the amount of receipt-sharing payments received by the local government from programs listed in section 4 of the act.

INEQUITIES IN FEDERAL LAND PAYMENTS COMPARED TO TAX EQUIVALENCY

In six of the eight Western States we reviewed, the amount paid to the States and local governments under Federal receipt-sharing programs and Public Law 94-565 exceeds by $187.3 million the amount they would receive on a tax equivalency basis. For two States--California and Oregon--we were unable to make a comparison because these States do not have statewide standards for assessing lands that are similar to federally-owned lands. The results of our comparison for six States are shown in table 3.

Table 3

Comparison of fiscal year 1977 Federal land payments with taxes if public lands were taxed as private

State	Entitlement acres (millions)	Federal payments		Tax equivalency basis -- private		Federal payments exceed tax value	
		$per acre	$total (millions)	$per acre	$total (millions)	$per acre	$total (millions)
Colorado	23.3	$1.13	$ 26.4	$ .24	$ 5.5	$ .89	$ 20.9
Montana	26.7	.97	26.0	.28	7.4	.69	18.6
Nevada	53.7	.18	9.8	.08	4.1	.10	5.7
New Mexico	22.6	2.89	65.3	.03	.8	2.86	64.5
Utah	32.3	.57	18.5	.11	3.5	.46	15.0
Wyoming	29.4	2.29	67.4	.16	4.8	2.13	62.6
Totals			$213.4		$26.1		$187.3

These six States represent a significant part of the total Federal land payment programs. For example, the six States contain over one-third of the Public Law 94-565 entitlement acres and received about one-half of all Federal land payments from fiscal year 1977 Federal receipts. The comparison uses Federal payments including mineral leasing, Taylor grazing, Forest Service, Bankhead-Jones, sale of land and material, Federal Power Commission, and Public Law 94-565 payments.

To determine the estimated taxes that would be paid on the Federal land in these six States, we classified the lands according to State land categories. We then applied an assessed value per acre to determine the total assessed value per county. The tax that could be collected was then determined by applying county tax rates (mill levies) to the taxable value for each category of land. Included in the tax rates that we used were mill levies for county government operations, school districts, and other countywide levies for such things as water districts or hospitals. In most cases, school district levies represented from 50 to 75 percent of the total levies.

Nearly all BLM land, as well as much of the Forest Service land, was categorized as grazing land. The assessed value of grazing or forest land was generally low in most counties compared to its market value, but use of these values in our computations was justified because the surrounding private land was assessed in the same manner for tax purposes.

In several States, we also found specific examples of Federal payments exceeding tax on similar private lands. In Nevada, for example, a private railroad owns lands adjacent to BLM lands on each side of the track. This type of land ownership, in which alternate sections are owned by the railroad and BLM, is called commingled lands. Railroad lands throughout the State have been assessed at $3.50 per acre since 1977. In Washoe County, which has commingled railroad and BLM lands, the tax is $0.14 an acre. In comparison, the county received Federal payments in 1977 of $0.43 an acre, over three times the amount of taxes on similar private lands.

Montana also has commingled lands owned by a private railroad and BLM. The assessed value of the railroad land in Gallatin Couty was $2.25 per acre. When the applicable mill levy is multiplied by this assessed value, the tax revenue comes out to $0.44 per acre. In comparison, Federal payments received by Gallatin County were $0.75 per acre.

In Colorado's Mesa County, an area where public and private grazing lands are generally side by side, ranchers were paying $0.12 per acre in taxes on private grazing land in 1977. This same county received Federal payments the same year of $0.70 per acre.

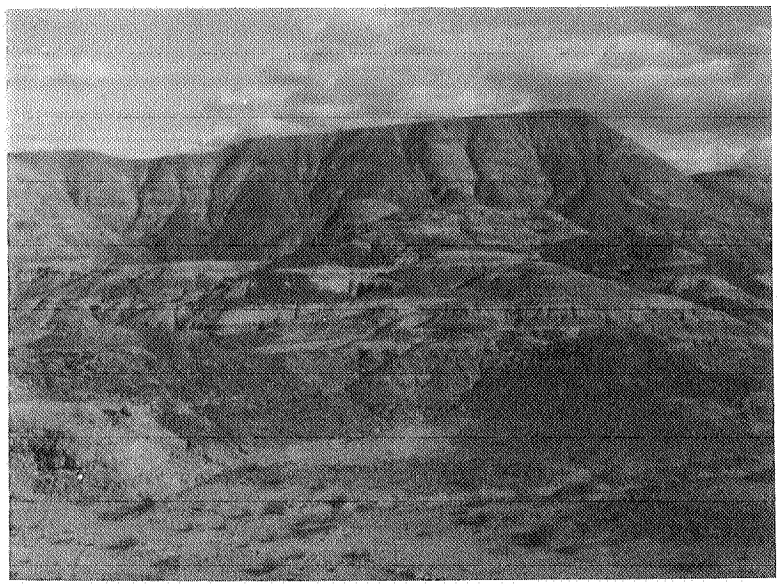
Additional examples showing Federal land payments exceeding the tax value of similar private lands are illustrated with pictures on the following two pages.

Direct Federal payments for county services

Many counties that receive large Federal land payments also receive direct payments under service contracts with Federal agencies. The Forest Service has had a policy for many years of paying for law enforcement on lands it administers. The Forest Service spent over $4.9 million in fiscal year 1977 for cooperative law enforcement on lands it administered. BLM also is authorized to enter into agreements for law enforcement on BLM administered lands under authority provided by the Federal Land Policy and Management Act of 1976.

Federal land payments will likely increase

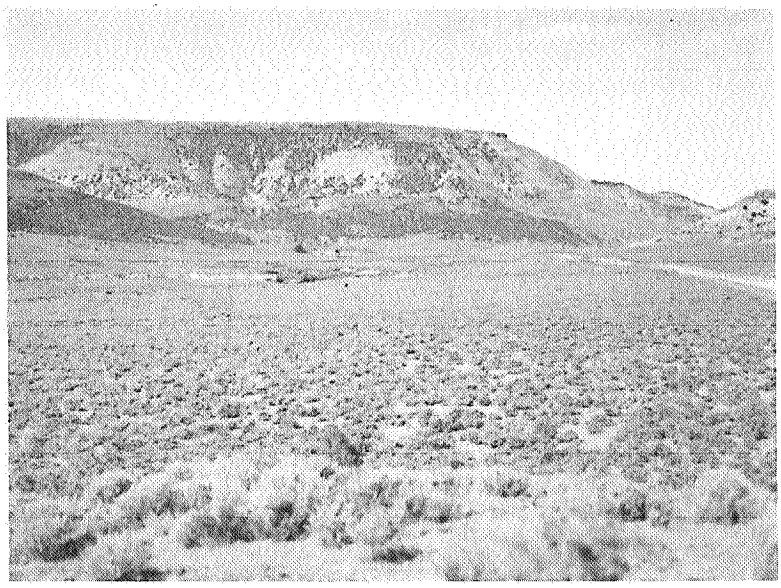
Based on recent trends, Federal land payments will likely increase faster than property taxes, creating a further disparity between the amount of Federal land payments and taxes theoretically lost on federally-owned land. Public land payments for fiscal years 1970-78 increased by



FEDERAL LANDS IN CLARK COUNTY, NEVADA. AVERAGE PAYMENTS RECEIVED BY THIS COUNTY IN 1977 WERE:

--$0.07 AN ACRE IN TAXES FOR SIMILAR PRIVATE GRAZING LANDS;

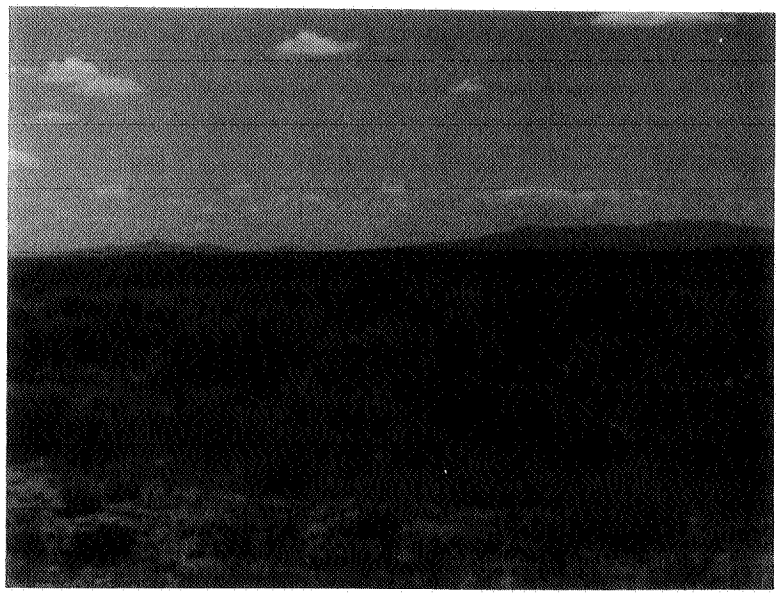
--$0.44 AN ACRE IN FEDERAL LAND PAYMENTS.



FEDERAL LANDS IN SWEETWATER COUNTY, WYOMING. AVERAGE PAYMENTS RECEIVED BY THIS COUNTY IN 1977 WERE:

--$0.09 AN ACRE IN TAXES FOR SIMILAR PRIVATE GRAZING LANDS;

--$0.20 AN ACRE IN FEDERAL LAND PAYMENTS.



FEDERAL LANDS IN MOFFAT COUNTY, COLORADO. AVERAGE PAYMENTS RECEIVED BY THIS COUNTY IN 1977 WERE:

--$0.08 AN ACRE IN TAXES FOR SIMILAR PRIVATE GRAZING LANDS;

--$0.26 AN ACRE IN FEDERAL LAND PAYMENTS.

FEDERAL LANDS IN GALLATIN COUNTY, MONTANA. AVERAGE PAYMENTS RECEIVED BY THIS COUNTY IN 1977 WERE:

--$0.029 AN ACRE IN TAXES FOR SIMILAR PRIVATE GRAZING LANDS;

--$0.99 AN ACRE IN FEDERAL LAND PAYMENTS.

$445 million or about 270 percent. (See chart on page 16.) Most of this increase, about $347 million, took place in fiscal years 1977 and 1978 and was attributable to the following factors:

--In 1976 Congress increased the percentage shared with the States of mineral lands leasing receipts from 37 1/2 percent to 50 percent.

--In 1976 Congress enacted legislation which based Forest Service receipt payments on the gross value of the timber rather than the net value.

--Public Law 94-565 was passed in 1976 to provide acreage payments to local governments.

--As resource values have increased, receipt-sharing payments to some locations have substantially increased.

CONCLUSIONS

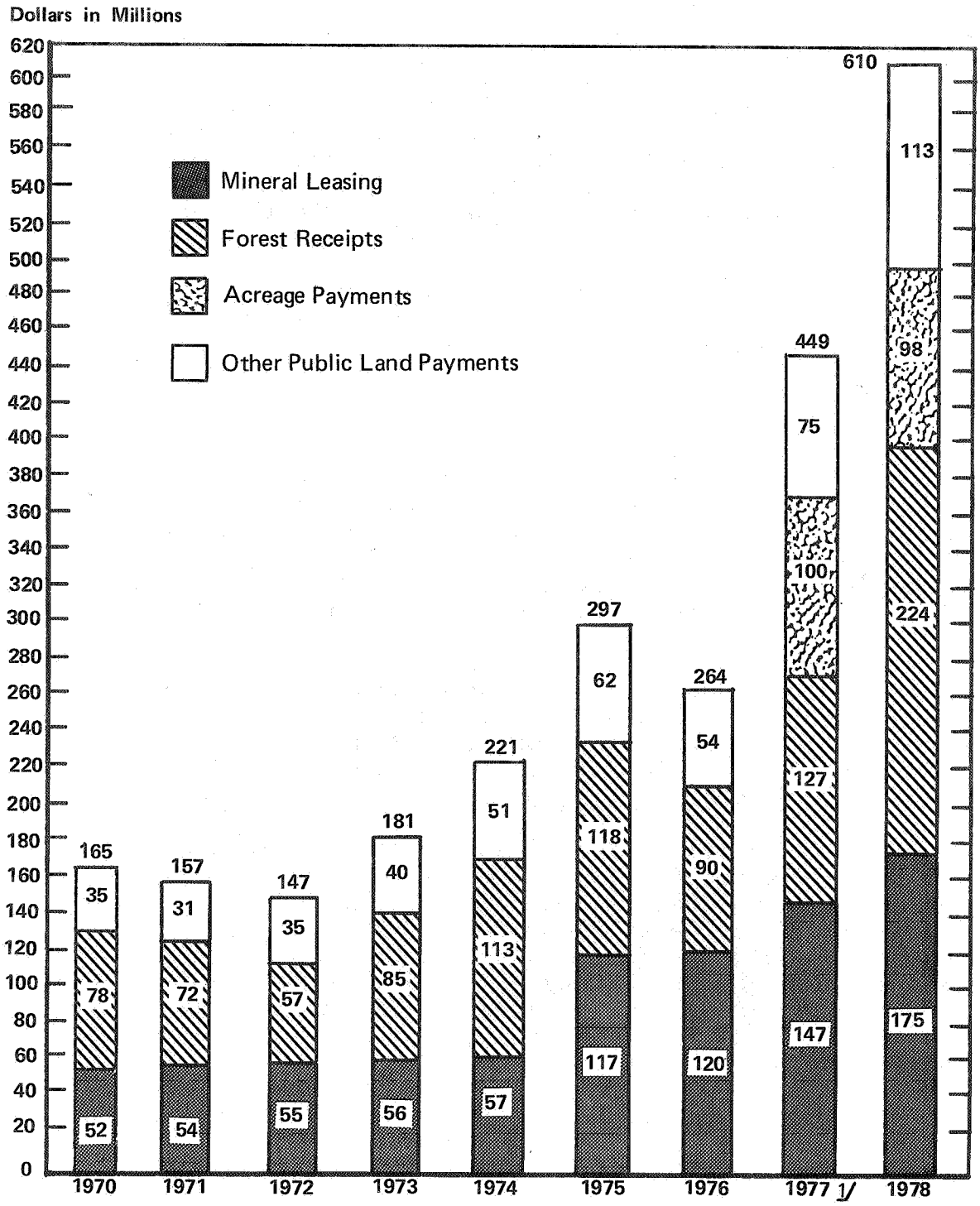
The Congress over the years has established various Federal land payment programs to compensate States and counties for lost revenue because Federal lands in their boundaries are tax-exempt. However, payments are not based on tax equivalency. Instead, most of the programs pay a percentage of the revenue generated annually from the Federal lands, and are permanently authorized without payment limits.

The Public Land Law Commission recommended in 1970 that counties receive one payment rather than a number of payments under the various receipt-sharing programs. The Congress, however, decided not to repeal the existing Federal land payment programs and instead in 1976 passed Public Law 94-565 which paid counties basically on a per-acre basis.

In six Western States that we reviewed, States and counties received $187.3 million, or an average of $1 more per-acre, from Federal land payments than they would have received on a tax equivalent basis. In recent years, land payments have grown from about $264 million in 1976 to about $610 million in 1978 because of increased income from Federal lands and congressionally mandated increases in the percentages paid. Federal land receipts are likely to continue increasing in future years.

The inequities can be best corrected by revising the various Federal land payment laws so that the method of payment directly and equitably serves the Congress' basic aims or rationale for making the payment. But first the Congress

FEDERAL PAYMENTS FOR PUBLIC LANDS
1970-1978



1/ Based on FY77 payments and Transition Quarter payments prorated to a 12 month time frame

may find it useful to reconsider whether tax equivalency is the most desirable rationale for most Federal land payment programs. Accordingly, a number of alternative rationales and the corresponding methods of payment they would entail are explored in Chapter 4. Such alternatives to full tax equivalency as fee per acre, receipt sharing, and fee for service are discussed.

CHAPTER 3

PROBLEMS AND INEQUITIES IN ACREAGE PAYMENTS UNDER PUBLIC LAW 94-565

Public Law 94-565, the newest Federal land payment program, was enacted because many counties were inadequately compensated under existing receipt-sharing programs. To prevent overcompensation, the act's payment formula provides that maximum acreage payments will be reduced by selected receipt-sharing payments that are received by local governments. This provision caused:

--Inaccurate payments and other administrative problems. In the eight States that we reviewed, we found incorrect payments totaling about $18 million for fiscal years 1977 and 1978.

--Loss of congressional budgetary control over actual annual payments for the program. State governments are able to influence the amounts of Federal payments passed through to their local governments and, in any given year, total payments to local governments will exceed the yearly limit that the Congress originally established for the program.

Another problem with the Public Law 94-565 payment formula is that it provides additional payments to counties that were already being compensated under receipt-sharing programs.

PROBLEMS IN COMPUTING PAYMENTS TO LOCAL GOVERNMENTS UNDER PUBLIC LAW 94-565

BLM made incorrect payments to many counties during the first 2 years of the Public Law 94-565 payment program. This happened because BLM did not anticipate the results of a decision on the legal status of payments to school and special districts and because BLM used inaccurate information submitted by the States to compute the payments. In addition, incorrect acreage figures contributed to these inaccurate payments. As a result, aggregate payment adjustments for fiscal year 1978 in the eight States we reviewed ranged from underpayments to California counties of almost $3.9 million to overpayments to Wyoming counties totaling over $1.1 million.

Table 4

Adjustments Needed to
Correct Initial PL 94-565 Payments

STATE	FY 1977	FY 1978
California	$1,214,967	$3,901,794
Colorado	860,867	238,252
Montana	525,288	3,687,196
Nevada	711,248	947,370
New Mexico	300,327	1,121,052
Oregon	147,168	501,898
Utah	562,386	1,756,627
Wyoming	397,930	(1,117,649)

Interpretive adjustments

A major reason for adjustments was Public Law 94-565's failure to specify whether school and special districts should be considered a part of the "unit of local government" under the Public Law 94-565 payment formula. 1/ Since millions of dollars of receipt-sharing payments are distributed each year to school and special districts, an interpretation that school and special districts should be considered a part of local governments would increase deductions under the formula and reduce payments to county governments.

1/Public Law 94-565 provides that a county's acreage payment will be the greater of the following amounts:

--Seventy-five cents for each acre of entitlement land located within the boundaries of such unit of local government (but not in excess of a limitation based on population) reduced by the aggregate amount of payments received by such unit of local government during the preceding fiscal year under 10 provisions of law that provide payments based on receipt-sharing formulas.

--Ten cents for each acre of entitlement land located within the boundaries of such unit of local government (but not in excess of a limitation based on population).

In computing the fiscal year 1977 and 1978 payments, BLM decided that payments passed through to school and special districts should be considered payments to county governments and therefore deducted.

On December 7, 1977, before the second Public Law 94-565 payment was made BLM requested the Department of the Interior Solicitor's opinion on whether the payments to school and special districts should be considered payments received by the county in which the district was located. Instead of issuing an opinion, the Solicitor on August 3, 1978, requested a Comptroller General decision on the matter. In his decision the Comptroller General held that payments made directly to independent school and special districts and payments required by State law to be passed through to financially independent school and special districts should not be deducted in computing acreage payments to counties unless the counties are legally responsible for providing these services and have collected taxes for this purpose.

The Comptroller General's decision means that BLM underpaid many counties for fiscal years 1977 and 1978. In the eight States covered by our review the decision was a major factor in BLM's overstating deductions by about $29.3 million for fiscal year 1977 and by about $33 million for fiscal year 1978.

The 1978 overstatement was larger because BLM did not obtain consistent information from States for deducting payments to school districts between the two payment years. For example, in computing the Montana fiscal year 1977 payment, BLM did not deduct mineral leasing payments made to school districts because State officials did not furnish information on the payments to BLM. However, in computing the 1978 payment, BLM insisted that Montana provide data on how $3.6 million in mineral leasing payments were distributed to school districts. Use of this information by BLM resulted in significant underpayments to most Montana counties.

Administrative problems resulting from school district issue

The Comptroller General's decision provides that receipt-sharing payments to independent school and other special districts in most instances cannot be deducted in determining acreage payments. Deductions are valid, however, where school or other special districts are part of county governments.

According to 1977 Bureau of Census data, 32 States have independent school districts. In another two States, all school systems that provide education through grade 12 are independent governments. A "mixed" situation is found in 11 States where elementary and secondary public schools are operated in some areas by independent school districts and elsewhere by some other type of government. The District of Columbia and five States (Alaska, Hawaii, Maryland, North Carolina and Virginia) have no independent school districts.

Determining the legal status of special districts will pose administrative problems for BLM. According to the 1977 Census of Governments, more than 25,000 districts throughout the U.S. are independent governmental units. Most States have hundreds of these districts. In the States covered by our review, State laws often require that receipt-sharing payments under the Taylor Grazing Act be used for range improvement activities deemed necessary by grazing advisory boards. These boards are considered by BLM to be independent governmental units.

Inaccurate state reports

Public Law 94-565 requires each State Governor to submit a report each year showing the amount of receipt-sharing payments which is transferred to local governments. In six of the eight States reviewed, we identified errors in the State reports which resulted in incorrect deductions in BLM's computation of payments.

One reason for inaccuracies is that many State government officials showed a lack of concern for acreage payments which go to county governments and provide no direct benefit to State governments. This lack of concern was evident in several States that submitted obviously incomplete and late reports.

Another reason is that many States are confused on what period of time the data should cover. The requirement in Public Law 94-565 is that the maximum $0.75 an acre payment is to be reduced by payments received by local governments during the preceding fiscal year. Because Federal payments under most receipt-sharing programs are made shortly after each fiscal year ends, payments for fiscal year 1975 were received by counties in fiscal year 1976. Thus, in most instances payments for fiscal year 1975 should have been used as deductions in computing 1977 acreage payments. By the time States were compiling data for the 1977 acreage payments, however, they had also received and distributed receipt-sharing payments for fiscal year 1976 and they incorrectly reported this data for deductions. Of the eight States we reviewed,

five State reports for fiscal year 1977 and four reports for fiscal year 1978 contained the same type of mistake.

Additional errors in the 1978 payments resulted because States misunderstood how to handle receipt-sharing payments that were distributed to counties between July 1, 1976 and September 30, 1976. This period was designated by the Congress as a transition quarter for changing the Federal fiscal year. The Department of the Interior instructed States to ignore receipt-sharing payments distributed to counties during the transition quarter. Of the eight States we reviewed, five did not follow this guidance.

In response to our findings on the unreliability of State-provided data, BLM officials told us that they were aware that errors probably existed in the States' reports. They stated, however, that they did not have the legal authority, staff, or funding to audit State records. We agree that auditing State reports does not appear feasible with current program resources. We were told that BLM is authorized only one full-time position for administering Public Law 94-565 payments. In proposed fiscal year 1980 appropriations for BLM, the House recommended that $115,000 be used for auditing State data.

Inaccurate acreage data

Inaccurate acreage data also resulted in BLM's making incorrect acreage payments. For example, we found that BLM made payments to Oregon counties on 492,631 acres of Oregon and California Grant Lands that are specifically excluded from acreage payments. Including these acres resulted in overpayments totaling $98,526 during the first 2 payment years.

Department of the Interior auditors also found numerous mistakes in the acreage figures used by BLM to compute payments. They stated that a major cause has been the incorrect reporting of lands originally administered by the Forest Service and then withdrawn by the Bureau of Reclamation for specific projects. In some instances, both agencies have reported the same entitlement acreages, while in other cases neither agency reported withdrawn entitlement acres.

BLM officials told us that inaccuracies in entitlement acres will probably continue for some time because of poor acreage data on Federal lands. Nevada, for example, has an estimated 18.8 million acres of unsurveyed Federal lands on which some counties receive payments under Public Law 94-565.

BLM officials stated that overpayments will be corrected as acreage differences are identified. Adjustments for underpayments depend on the availability of funds.

Problems in making adjustments

Where needed, BLM is authorized to use the succeeding fiscal year's appropriation to make adjustments. Thus, adjustments in 1977 payments could have been made from the 1978 appropriation. On November 1, 1978, BLM had the following funds for adjusting 1977 and 1978 payments:

Table 5

Payment Adjustment Funds

	Funds available (millions)
1977 payment adjustments (1978 funds)	$2.3
1978 payment adjustments (1979 funds)	a/105.0

a/On November 1, 1978, no payments had been made from 1979 funds. Therefore, technically the entire appropriation was available.

Based on guidance from the Interior Solicitor's office, BLM has made 1977 adjustments on a first-come-first-served basis. During November 1978 BLM used about $1.26 million of the $2.3 million in funds to adjust 1977 payments for counties in three States that originally protested BLM's payments. BLM planned to distribute the remaining $1.04 million on a similar first-come-first-served basis. Because BLM realized that $1.04 million is totally insufficient to fund all 1977 payment adjustments ($3.2 million would be needed for the eight States we reviewed), it has not encouraged States to pursue adjustments for 1977. Therefore, underpayments or overpayments to many counties for fiscal year 1977 may never be identified or corrected.

With the entire 1979 appropriation still intact, BLM planned to make full adjustments necessary for 1978 payments. BLM estimated $20 million to $30 million of the 1979 appropriation might be used for this purpose.

BLM sent letters during October 1978 to each State requesting data needed to correct deductions used in computing 1978 payments. Of the eight States we reviewed, six had provided new data by January 1979 in response to BLM's request.

We observed that two States, Montana and Utah, again submitted incorrect data.

Conclusion

In the fiscal years 1977 and 1978 under Public Law 94-565:

--BLM did not anticipate the Comptroller General's decision determining which receipt-sharing payments to deduct. This resulted in significant underpayments for fiscal years 1977 and 1978.

--BLM used inaccurate information submitted by the States to compute payments. Although State reports have been found to contain an unacceptable number of errors, BLM has not been given resources to verify these reports and BLM has not shown a willingness to use its existing resources for this purpose. As noted, however, the House has recommended the use of BLM fiscal year 1980 funds for auditing State data.

--BLM did not have accurate acreage data.

Three problems arise from BLM's approach for making adjustments. The first is that BLM will base adjustments on unverified and historically questionable data submitted by State governments. We think these reports have contained an unacceptable error rate, and we believe that legislative authority should be sought so adjustments or future payments would not be made until the State submissions are verified.

The second problem is that BLM has not pursued all adjustments needed in 1977 payments. We believe this inaction is unfair and unreasonable considering that a major reason for the incorrect payments was BLM's decision to deduct payments to financially independent school districts.

The third problem is that if BLM estimates are correct, it will only be able to pay counties from 70 to 80 percent of their 1979 entitlement payments because of limited funds remaining after 1978 adjustments are made from 1979 funds. The prorated reduction for 1979 will be especially unfair to counties with new entitlement acreages authorized by Public Law 95-469. Under this law, which added millions of acres of public lands as entitlement acres, some counties are due to receive their first acreage payment from the fiscal year 1979 appropriation.

Recommendations

We recommend that BLM take steps to validate receipt-sharing deductions for fiscal year 1977 and 1978 payment computations to all States except for the eight States we reviewed. We have already given BLM adjusted data on the eight States. A procedure for validating State reports for the 1979 payments also should be established. If BLM cannot accomplish all verification work within its resources, it should request assistance from the Department of the Interior.

The magnitude of necessary adjustments in fiscal years 1977 and 1978 indicates that a first-come-first-served approach does not follow the congressional intent of providing equitable payments to each State within the appropriation ceiling. On the contrary, it has contributed significantly to subsequent legislation that allows adjustments out of the succeeding year's appropriation. Thus, we recommend that the Bureau seek legislative authority to adjust underpayments in preceding fiscal years out of current fiscal year appropriations. With this authority, BLM could make future adjustments by determining what each county should have received for fiscal years 1977 and 1978 and then by prorating any appropriation deficit among recipients. Fiscal year 1979 payments should then be adjusted so that each county receives the proper (prorated) total payment for the 3-year period.

WEAKENED CONGRESSIONAL CONTROL AND INEQUITIES RESULTING FROM STATE CONTROL OF PUBLIC LAW 94-565 PAYMENT AMOUNTS

The Congress, through the appropriations process, has control over the total amount of annual Public Law 94-565 payments. However, under the terms of the act, congressional control over specific payments is lacking, and therefore states can increase considerably Public Law 94-565 payments by amending their laws so that no receipt-sharing payments are paid directly to counties. For example, fiscal year 1978 Public Law 94-565 payments to all States were about $96.6 million. If all the States changed their laws so that no mineral leasing or Forest Service payments were paid directly to counties, about $138.1 million would have been required to compensate counties under the payment formula. The Congress limited total payments, however, to $100 million in fiscal year 1978 appropriations.

The original appropriation is not a totally effective ceiling, however, because the Congress subsequently authorized BLM to use the succeeding fiscal year's appropriations to make adjustments for the prior year's underpayments. As noted in

the preceding section, BLM is making corrections in fiscal year 1978 payments with fiscal year 1979 funds. Since BLM estimates it will use from $20 million to $30 million of fiscal year 1979 funds to correct 1978 payments, the total cost of the program for fiscal year 1978 will be $125 million to $135 million, substantially greater than the initial appropriations action of $100 million for 1978.

Not only does the ability of States to influence payment amounts affect annual congressional payment limits, it also creates serious inequities to the local governments receiving payments. There is no consistency among States in the proportion of payments which is passed directly to local governments and therefore deducted in computing Public Law 94-565 payments. In the eight States we reviewed, for example, the amount of receipt-sharing payments passed through to counties varied from 3 percent in Nevada, New Mexico, and Utah to 75 percent in Oregon as shown in table 6:

Table 6

Comparison of Potential to Actual Deductions for Eight States

State	Total payments received FY 1978 (potential deductions)	Payments distributed to counties FY 1978 (actual deductions)	Percentage actual of potential
California	$54,702,271	$24,108,751	44
Colorado	18,091,432	9,853,695	54
Montana	17,231,694	6,845,002	40
Nevada	4,588,733	147,191	3
New Mexico	56,232,123	1,530,905	3
Oregon	90,413,388	67,969,751	75
Utah	10,451,930	316,815	3
Wyoming	67,178,643	2,389,442	4

In the States we visited, most State laws controlling these deductions were passed before Public Law 94-565 was enacted. Two of the eight States have passed new laws since enactment of Public Law 94-565 that decrease deductions and thereby increase the total payment counties receive under Public Law 94-565. In Utah 10 percent of the mineral leasing payments were passed directly to counties until passage of a new State law providing that these payments would be kept at the State level. As a result, Utah was not required to consider potential deductions of over $500,000 for fiscal year 1978. The amount will probably be even greater for future years. In Wyoming the counties' share of mineral leasing payments was reduced from 3 percent to 2.25 percent. This change reduced potential deductions for computing Public Law 94-565 payments by about $528,000 for fiscal year 1978.

Appendix II illustrates a nationwide inconsistency in the various States' practices in passing or not passing deductible receipt-sharing payments through to county governments. For example, of the 23 States that received a total of about $175.1 million under the Mineral Land Leasing Act during fiscal year 1978, only 10 States reported that they distribute the payments to counties.

In cases where payments are reported as being passed through to counties, States have varying distribution requirements which also affect deductible payments. Table 7 shows for the eight States we reviewed the percentage of receipt payments paid directly to local governments and therefore deductible from Public Law 94-565 payments for the two largest receipt-sharing programs.

Table 7

Percent of Deductible (Note a) and Nondeductible (Note b) Payments For Computing PL 94-565 Payments Eight Selected States

State	Program			
	Mineral Leasing Royalty		Forest Reserve	
	Deductible	Nondeductible	Deductible	Nondeductible
California	0	100	50	50
Colorado	50	50	95	5
Montana	0	100	66-2/3	33-1/3
Nevada	0	100	50	50
New Mexico	0	100	50	50
Oregon	100	0	75	25
Utah	0	100	50	50
Wyoming	2-1/4	97-3/4	95	5

a/Paid directly to local governments and used for county government purposes.

b/Retained at the State level or distributed by law to independent school districts or other special districts.

Since most receipt-sharing payments are sent to State governments, States also control deductions to Public Law 94-565 payments by the timing of their distribution of receipt-sharing payments to local governments. State influence on the timing of payments to counties was particularly apparent during the transition quarter between fiscal years 1976 and 1977. For example, six of the eight States included in our review distributed most fiscal year 1976 payments to counties within the transition quarter--July 1 to September 30, 1976. This resulted in these States not having to deduct payments for fiscal year 1976 from any Public Law 94-565 payment year because the transition quarter was not considered a part of any fiscal year.

In Wyoming receipt-sharing payments were not promptly distributed to counties. However, the State ignored this fact in submitting data to BLM. Payments for fiscal year 1976 were received by the State during the transition quarter but were not distributed to the counties until fiscal year 1977. If calculations of payments to Wyoming counties had been based on correct data, this slower passthrough of receipt-sharing payments would have reduced Public Law 94-565 payments to Wyoming counties by more than $1 million.

Conclusions and recommendations

Public Law 94-565 has a fundamental weakness which allows States to influence payment amounts by the way they distribute payments. Our recommendations concerning this issue are included in chapter 5.

COUNTIES RECEIVE PUBLIC LAW 94-565 PAYMENTS REGARDLESS OF OTHER PAYMENTS

Because of minimum payment provisions and special exemptions on certain Federal lands in Oregon, Public Law 94-565 provides acreage payments to counties that were already being compensated under receipt-sharing programs. For example, 18 Oregon counties that received over $106 million in receipt-sharing payments for fiscal year 1977 also received Public Law 94-565 payments totaling over $800,000. Douglas County was the most extreme example. It received about $35.9 million in receipt-sharing payments plus a Public Law 94-565 payment of $103,268. This $36 million in total Federal land payments represented a per capita payment of about $430 for each of the 83,700 residents of Douglas County.

Most receipt-sharing payments for the 18 Oregon counties were derived from special legislation covering Oregon and California grant lands and Coos Bay Wagon Road grant lands. Section 5 of Public Law 94-565 prohibits payments for lands receiving payments under this special legislation, but the counties can receive Section 5 acreage payments on other Federal lands located within their boundaries.

While some Oregon counties are the largest county recipients of Federal payments, 41 counties in the other seven States covered by our review received receipt-sharing payments of over $1 million each for fiscal year 1977 plus acreage payments. Public Law 94-565 provides local governments with a minimum $0.10 an acre payment regardless of other Federal payments and subject only to a limitation based on population. A schedule showing payment data for the 41 counties is given in table 8.

Table 8

Receipt-Sharing Payment Data

State	Number of counties receiving over $1 million in receipt sharing	Receipt sharing	Acreage payment	Total Federal payment
California	16	$44,008,130	$3,823,995	$47,832,125
Montana	2	5,886,813	634,167	6,520,980
New Mexico	15	47,552,482	7,598,832	55,151,314
Wyoming	8	22,485,536	2,963,904	25,449,440
Total	41	$119,932,961	$15,020,898	$134,953,859

CONCLUSIONS AND RECOMMENDATIONS

Some counties are receiving acreage payments under minimum payment provisions of Public Law 94-565 that were already being compensated without them. Our recommendations concerning this problem are included in chapter 5.

CHAPTER 4

ALTERNATIVES FOR MAKING FEDERAL LAND PAYMENTS

The current programs for making Federal land payments result in numerous problems and inequities which need to be corrected. To assess possible remedies systematically, we developed criteria for evaluating alternative policy actions. Several ways to compensate local governments for the presence of Federal lands within their jurisdictions are described and evaluated using these criteria. The chapter closes with a simplified example of what payments might be in three hypothetical counties using several of the proposed alternatives and under the current system.

CRITERIA FOR EVALUATING FEDERAL LAND PAYMENT OPTIONS

The criteria used here to assess Federal policy options for compensating local governments for Federal lands within their jurisdictions provide a basis for evaluating any potential alternative. However, consideration should be given to the method's purpose and objectives, the way it would be implemented, and other possible alternatives.

These criteria are not independent of each other; they may conflict or influence one another. We believe, however, that the option selected by the Congress should meet as many of these criteria as possible.

Our criteria concern the following issues:

--Legislative requirements

--Uniformity

--Congressional budgetary control

--Federal administrative requirements

--Recipient's administrative requirements.

The criteria and pertinent questions about them follow.

CRITERIA FOR EVALUATING FEDERAL LAND PAYMENT OPTIONS

1. LEGISLATIVE REQUIREMENTS

   a. Is the payment method related to the congressional intent for the program?

   b. Is the bill worded so that the intent of the Congress is made clear?

2. UNIFORMITY

   a. Are the payments to local governments determined uniformly?

   b. Are the principles and procedures governing payments consistent?

3. CONGRESSIONAL CONTROL

   a. Does the Congress maintain adequate budgetary control over the program?

   b. Is it possible for interested parties to manipulate the size of payments?

4. FEDERAL ADMINISTRATIVE REQUIREMENTS

   a. Are the data necessary to determine the payments available in a timely manner?

   b. Is the agency responsible for verifying these data identified and given authority to perform this task?

   c. Can the program be administered efficiently and economically?

5. RECIPIENT'S ADMINISTRATIVE REQUIREMENTS

   a. Are advance estimates of the amounts of payments provided to recipients?

   b. Are the payments timely?

   c. Are the payments stable?

Legislative requirements

Payments should be made according to congressional intent. Congressional hearings and legislative histories of the various acts made it clear that the main reason for payments was to compensate local governments for assuming the economic burdens for taxes not collected because of the tax-exempt status of the Federal Government. Thus the payments should bear some relation to the local tax structures. The analysis in chapter 2 demonstrates that this is not the case with the present payment scheme and many inequities exist.

Under the system which existed before the enactment of Public Law 94-565, some local governments were paid many times what they would have received in taxes from the lands. Other local governments received little or nothing for Federal lands in their domains. Public Law 94-565 attempted unsuccessfully to reduce this type of inequity. The present system is also inequitable to Federal taxpayers; our analysis indicates that the total amount of Federal payments is greater than it would be if full tax equivalency were the basis for compensation.

Any bill providing for payments should clearly state the congressional intent to avoid later interpretive difficulties. Chapters 2 and 3 demonstrate that the intended relationship between Public Law 94-565 payment reductions and the previous receipt-sharing programs has often been ambiguous. Consequently, BLM did not anticipate the Comptroller General's decision on the legal status of payments to independent school and special districts. Legal opinions on other controversial matters are pending at the Department of the Interior.

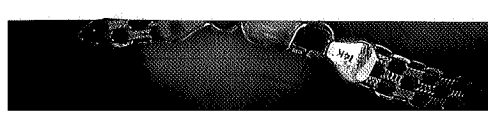
Uniformity

Payments to local governments should be uniform to avoid favoring one local government over another. Whatever payment system is adopted, it should be equitable; the same basis of payment should be applied to all Federal lands. No uniformity now exists on receipt-sharing laws concerning:

--Percentage of receipts returned. The several receipt-sharing laws pay from 5 to 90 percent.

--Recipient of payments. Some payments are for State governments, while others are for local governments.

--Use of payments. Some receipt-sharing acts require that payments be used for schools and



roads, while others allow payments to be used for any governmental purpose.

Congressional budgetary control

The Congress should maintain budgetary control over the program. An inconsistency now exists in how the programs have been controlled. For example, receipt-sharing payments are not limited by the Federal budget process, that is, recipients are guaranteed a percentage of total Federal collections. On the other hand, the Congress limits total program costs of Public Law 94-565 through annual appropriations.

A second aspect of congressional budgetary control concerns whether or not interested parties, such as States, can influence the size of payments passed to local governments within their boundaries, as can now occur within the terms of Public Law 94-565. In chapter 3 we discussed how two States already have influenced the total amount of payments to the State and local governments by changing their laws. Clearly other States have an incentive to do the same thing. The Congress should ensure that similar situations do not occur in any future payment legislation.

Federal administrative requirements

Several basic administrative requirements are needed if a program is to function properly. First, the data necessary to determine payments should be available promptly. No matter how appealing a plan seems, if the data necessary to calculate the payments are not on time, it will never be possible to implement the plan. This may be the most important single consideration in devising a method for compensating local governments for Federal lands within their jurisdictions.

Second, these data should be verified promptly and the agency responsible for verifying them should be identified specifically and given the authority to perform this task. A lack of reliable data from States and differing State laws for distributing receipt-sharing payments have prevented BLM from making Public Law 94-565 payments on a consistent basis.

Third, the program should be feasible to administer efficiently and economically. The present program appears to be economical (i.e., low administration costs), but the true costs of this activity have not been determined as yet.

Administrative requirements of recipients

The payment plan should reflect the administrative needs of the recipients. Counties are concerned with three main areas.

First, local governments need an estimate of the size of the payment. The counties prepare their budgets early in the year and need to know how much money they will receive. Hence, the counties should receive timely and accurate estimates to help them in their planning.

Second, payments should also be prompt, and the legislation should guarantee that this occurs. Generally, Public Law 94-565 payments have been made to local governments on time. However, this is not always the case with receipt-sharing payments, which are made to States and then passed on to local governments. We found that some States pass the money to counties within a few days, while others wait as long as 3 months.

Third, payments should be stable; that is, large fluctuations should be avoided as much as possible. Payments can fluctuate wildly, and counties view this very negatively (especially when payments decrease).

EVALUATION OF POLICY OPTIONS FOR COMPENSATING LOCAL GOVERNMENTS FOR FEDERAL PROPERTY 1/

The Federal Government has several alternatives for compensating local governments for Federal land within their jurisdictions. A number of policy options are described below and evaluated using the criteria outlined in the preceding section. These options include:

--tax equivalency,

--fee per acre,

--receipt sharing,

1/"The Adequacy of Federal Compensation to Local Governments for Tax Exempt Federal Lands," Advisory Commission on Intergovernmental Relations, and "One Third of the Nation's Land," Public Land Law Review Commission, have been useful in the preparation of this chapter.

--receipt sharing plus fee per acre,

--fee for service,

--fiscal impact of Federal ownership,

--imposed expenditures, and

--comparable tax burden.

It should be emphasized that a decision to adopt a new method of payment must take into account the effects it might have on governmental jurisdictions. For example, changing methods could greatly reduce payments to some governmental jurisdictions. Such a change in payments could lead to the following possibilities:

--Some counties may raise their own property taxes, which would have many secondary effects. Property taxes are deductible from adjusted gross income on Federal income tax returns. Any increase in local property tax would therefore result in a lower tax base and, consequently, lower Federal revenues. Obviously such reductions would not have a significant effect on Federal revenues. They would amount to much less than the corresponding increase in Federal revenues resulting from eliminating the receipt-sharing programs.

--Affected counties might raise the yield or severance taxes on minerals or timber, which would raise the price of these goods for consumers. The secondary effects on, for example, the construction industry would be more difficult to estimate than the corresponding effects of Federal revenues due to increased property taxes.

--Elimination or substantial revision of the existing receipt-sharing programs could result in lower payments to States. This change would not only affect counties with public lands. In some States very little of the funds received from mineral leasing receipts is returned to the counties in which these revenues were generated. Instead, funds are passed on to some non-public-land counties for schools. It is conceivable that these non-public-land counties could be affected more greatly than the other counties.

In many cases various units of government have come to depend upon funds they currently receive from the various

revenue-sharing programs. If a new payment plan is adopted which eliminates these funds, careful attention must be paid to the way the plan is implemented to lessen the undesirable consequences.

Tax equivalency

This approach would base compensation on the taxes forgone on the land because the land is federally, not privately, owned. The Federal Government would pay an amount related to the actual local property taxes a private landowner would pay for the same land. The rationale for this approach is that lost taxes may be needed to pay the costs the land imposes and, more importantly, to assure a normal tax base for the governmental jurisdiction.

If the primary purpose for making payments is to compensate local governments for forgone taxes, then this option satisfies the intent of the legislative requirements criterion. However, the appropriate legislation and implementing regulations must be drafted with great care to avoid interpretive difficulties. Tax equivalency meets the uniformity and recipient's administrative requirement criteria. It also satisfies the first two items under the Federal administrative requirements criterion since the necessary data are available and these data could be gathered and verified in time to make payments. Our analysis shows that it is feasible to implement an approach based on tax equivalency, although it would be costly to administer such a program.

Changing to tax equivalency would have profound effects on many governmental jurisdictions. Many counties receiving small payments under the present program would receive larger payments under tax equivalency. Counties currently receiving large payments from receipt-sharing programs would receive less under the other system; payments to several counties would drop by millions of dollars. This would provide these counties with a strong incentive to raise their property taxes or their yield or severance taxes.

A primary concern under tax equivalency is the relationship of congressional control and Federal administrative requirements. Maximum congressional control with minimum Federal requirements would be the most desirable combination; however, these criteria work against one another to some extent. As Federal control increases, Federal administrative requirements also increase. It therefore seems impossible to meet fully both these criteria, and any legislation implementing tax equivalency must be a compromise between them.

The Public Land Law Review Commission concluded that tax equivalency is the only fair approach upon which compensation should be based, and recommended that the Congress implement it as described in its report. Among other things, its plan involved phasing in tax equivalency over a period of years to lessen the adverse effects on counties that would lose large amounts of revenue. It also recommended reducing full tax equivalency by at least 10 percent but at most 40 percent to account for benefits counties derive from the presence of Federal lands. The analysis in the Advisory Commission's report indicates that it would be very difficult to implement an approach based on tax equivalency.

Our analysis indicates that it is possible to implement a method of compensation based on tax equivalency. In some States, this approach would be relatively simple to administer because counties bill private landowners based on the general classification of the land. For example, in several States we visited, grazing land (most BLM land falls in this category) was classified according to the number of animals it would support and billed at a standard statewide rate according to the classification. In total, 18 States which have 55 percent of the Federal lands covered by Public Law 94-565 require that local governments use standard assessments in setting property taxes. The remaining 32 States have optional or no standards which must be followed by local governments. For these latter States, Federal review and evaluation would be more difficult.

Fee per acre

According to this approach, public land ownership causes fiscal burdens for the local governments, but the amount cannot be determined accurately. If one assumes that the local governments should be compensated for these lands, a fixed per-acre payment has merit. Tax equivalency compensates counties for forgone property taxes which are based on the value of the land. As such, it is similar to an ad valorem tax. This approach would pay a flat fee per unit of land, the unit being an acre. From this point of view the fee-per-acre option is analogous to a unit tax. The per-acre amount could be adjusted for type of land and population, and could be indexed to inflation.

If the main purpose for making payments is to compensate local governments for forgone property taxes, then this option does not satisfy the first item under the legislative requirements criterion. In fact, it probably would not satisfy this item under any rationale except for one based on a unit tax concept. However, this approach more easily

permits clearly worded legislation than any other option considered.

If the payments are adjusted for type of land, this option would not satisfy the first item under the uniformity criterion. In this case, the payments would not be made uniformly for all land. However, they would be made uniformly for a given type of land, subject only to a population limit if one is imposed. The simplest arrangement would be to pay one flat fee for lands administered by the Forest Service and another flat fee for lands administered by BLM. Any such modification of a flat fee per acre would complicate the program's administration. Although this would lessen the simplicity of the method, it still would be the easiest option to administer.

This option scores higher than any other option on the congressional control criterion and the recipient's administrative requirements. Some counties, however, could suffer financial hardship. As with tax equivalency, several counties would receive substantially less under a fee-per-acre alternative than they receive currently. To offset somewhat the effects of reduced payments, they might raise the yield or severance taxes on minerals or timber. This could lead to consequences such as those discussed at the beginning of this section. Adequate consideration should be given to such issues before a decision is made to implement a fee-per-acre program. Such a program could be phased in over a period of years to lessen the immediate financial impact on adversely affected counties.

Receipt sharing

Federal ownership of property imposes costs on local governments and deprives them of a potential source of income. To help local governments overcome any adverse effects and to reward them for their assistance, they deserve a share of the receipts earned from the public lands. Furthermore, the local governments' willing effort to coordinate their services with the needs of the Federal Government contributes to the productive use of the land. Receipt sharing is exemplified by the part of the current program which distributes receipts to the States and local governments for entitlement lands.

This payment method would be related to the intent of the bill as described above. However, over the last 70 years, during which the Congress has passed and modified a number of laws to provide for a sharing of public land receipts

with local governments, the implied or stated primary reason for this sharing of receipts has generally been to compensate local governments for the tax immunity of public lands. Since this is the main reason for enacting such legislation, the first item under the legislative requirement criterion is not satisfied here: receipt sharing simply does not equitably compensate local governments for lost taxes.

Receipt-sharing programs do not meet the uniformity criterion since the percentage of receipts paid varies with the different laws, the payment recipients are States under some programs and local governments under others, and the use of the payments is not always specified. These problems tend to create inequity but possibly could be rectified. A more serious problem occurs for counties having lands that produce no revenue; they receive no payment at all. This inequity will always remain under the receipt-sharing approach.

This method of compensation partially meets the congressional budgetary control criterion. The Congress has control since interested parties cannot manipulate the amount of the payments. The Congress, however, does not control the total amount of payments.

Receipt-sharing programs satisfy the Federal administrative requirements criterion. The Federal Government has developed a system for administering receipt-sharing payments. Experience has shown that data are generally verifiable, and the program is relatively simple to administer.

There are several serious objections to the fifth criterion, meeting the administrative needs of the recipient, that would be difficult to overcome. Some problems include the following:

--Although recipients of receipt-sharing payments generally know when to expect their payments, with the exception of Forest Service payments, local governments do not receive advance estimates of the amount of the payments.

--With one exception, payments from the receipt-sharing programs currently are made to the States, and the States pass them on to local governments. In some cases States have waited as long as 2 to 3 months to pass the money to local governments. Presumably this delay could be eliminated by appropriately amending the existing legislation.

--It would be much more difficult to resolve the stability problem. For example, when timber is cut and sold, the States receive 25 percent of the gross sales price. However, if it is not a proper time to cut timber, none is sold and the States receive nothing. Any solution to this type of problem must come from changes in management of the forests; it cannot be resolved within the context of the receipt-sharing approach, per se. The stability problem could not be eliminated, but its adverse effects would be lessened by basing payments on a 5-year moving average of receipts instead of on the current year's receipts only.

The appeal of receipt-sharing programs is that they are in place and relatively simple to administer. State and local governments receiving large payments can be expected to strongly oppose any proposed changes to existing programs that would result in lower payments. Increased severance or yield taxes is a possibility. The ultimate consequences of such actions are difficult to predict but must be considered. It is not necessary to discontinue the receipt-sharing programs. We discuss below one option for continuing the programs.

Receipt sharing plus fee-per-acre

Under this payment option, which is similar to the present system, receipt-sharing payments would be supplemented by acreage payments to local governments. Receipt-sharing payments presently are tied to the amount of revenues generated by public lands and are usually paid to States; the States use these funds in various ways, but in most cases only a small portion of funds goes to the local governments where revenues are generated. The result is a business partnership arrangement between the Federal Government and State and local governments. If the Congress wishes to maintain this partnership, it could consider disassociating the acreage payments from the receipt payments. This option would require changing Public Law 94-565 to provide that the land payments to local governments are made on a different basis. It would also require changing the receipt-sharing laws. As in the fee-per-acre option, the per-acre payments could be adjusted for type of land and population and could be indexed to inflation. A variation on this option would be to provide acreage payments to only those counties whose receipt-sharing payments fall below an amount determined by Congress.

This option has all the disadvantages of receipt sharing discussed above, with the following exceptions:

--At least some of the payments would be more prompt. That is, even with no change in the receipt-sharing programs, the acreage payments could be made directly to local governments at a specified time.

--Those counties that would receive little or no compensation under the receipt sharing plan would at least receive acreage payments.

However, it should be noted that:

--It would be more complex to administer such a program than receipt sharing alone, and the administrative costs would be greater.

Fee-for-service

A fee-for-service method is based on the rationale that local governments should be compensated directly for services provided for public lands. For example, both the Forest Service and Bureau of Land Management currently use reimbursable service contracts for getting local police surveillance on specific areas of Federal lands.

This method does help to neutralize the counties' costs of maintaining Federal lands and it satisfies the criteria concerning legislative requirements and uniformity. Depending on program implementation, it could also meet some of the administrative needs of recipients.

The major limitation of this method is the enormous number of administrative requirements. Federal lands are in more than 1,500 counties, and each unit of county government would have to maintain records on costs associated with services for public lands. Methods would have to be devised to determine the Federal Government's share of the direct and indirect costs to local governments for maintaining police, fire, and rescue capabilities. Reimbursement agreements also would need to consider the cost to local governments of maintaining roads that provide access to public lands. The Federal Government would have to have methods of verifying these data before making payments. Thus, the fee-for-service method for normal county services would require extensive new administrative efforts from counties and the Federal Government. It would also require additional legislation. For these reasons, the fee-for-service option is not a realistic alternative.

Fiscal impact of
Federal ownership

This is the most comprehensive approach of all the policy options and is based on the following considerations. Local governments must pay the costs of Federal land (for road maintenance, police protection, fire protection, etc.) but they also reap the benefits (e.g., public use of roads in national forests). At the same time, Federal ownership prevents local jurisdictions from incurring any costs and enjoying any benefits of private ownership of this land. The total impact of Federal ownership of land within a local jurisdiction is the difference between (1) the net positive or negative fiscal effect of public ownership, and (2) the net positive or negative fiscal effect that would have been associated with private ownership of the land. Assuming that all the relevant fiscal effects could be identified and measured accurately, a county could be compensated for Federal land within its boundaries by receiving payments equal to any losses (a negative difference). If the difference were positive, no payment would be made. 1/

Because this is the most comprehensive approach, it should lead to the most equitable system of payments to local governments. It scores fairly well on all of the criteria except for the administrative requirements and the second item under legislative requirements, that the intent be clearly stated in the legislative language. In these areas the option is completely lacking. However appealing this alternative seems, our investigations indicate that identifying all the relevant spillover effects would be virtually impossible and that assigning an accurate dollar amount to each of the effects would be equally difficult. Even if isolating these spillover effects were possible, it would be so time-consuming and costly that providing advanced estimates to recipients would not be possible. Further, casting this complex concept in clearly stated legislative language and unambiguous regulations would require extreme caution.

It is not feasible to implement a method of compensation based upon this concept.

1/Almost directly from "The Adequacy of Federal Compensation to Local Governments for Tax Exempt Federal Lands," Advisory Commission on Intergovernmental Relations.

Imposed expenditures

This approach focuses on one of the four components considered in the preceding alternative. The Federal land and the activity on it require additional public service expenditures, referred to as "imposed expenditures," from the county. One method for compensating the county would be to estimate these imposed expenditures and pay the county an amount equal to them. Such an approach would reflect the current actual expense to the county.

Because this option is not as comprehensive as the previous one, it is less desirable in principle. Also, it suffers from the same basic flaws: obtaining the necessary data would be very difficult, and drafting clearly stated legislation and regulations would have to to be done with great care. Hence, this approach also is not feasible to implement.

Comparable tax burden

The comparable tax burden approach is not meant to compensate for the actual effects of Federal ownership; it is to assure that the effects do not place counties in a position of fiscal distress. The rationale is that if counties with Federal land are financially worse off than similar counties without Federal land the fiscal problem is probably caused by Federal ownership. Data collected by the Bureau of the Census for the Federal General Revenue Sharing program and for its governmental finance publications permit the development of this approach. "Extraordinary" per capita tax effort required to provide "normal" per capita local expenditures could be used as the basis for payment. Alternatively, the particular fiscal problems of each county could be dealt with case by case.

This option satisfies the congressional requirements and uniformity criteria, but the other criteria present problems.

First, it is not clear that budgetary control could be maintained or that local units of government would not be able to manipulate the size of payments.

Next, it seems certain that, at best, the payments would always reflect the preceding year's comparable tax burden. It would be relatively easy to make timely payments, and they might be stable. However, advanced estimates would be difficult to provide due to the time required to gather and process the necessary data.

The issue of gathering and processing the requisite data is crucial and cannot be dismissed lightly. The details would have to be given very careful consideration. The data might be available. However, an appropriate county would have to be found to compare with each public land county (these comparison counties could change from year to year, creating additional administrative problems), and the tax burdens for each of these counties would have to be measured and compared in order to compute payments. Counties which did not fare well would have a strong incentive to protest, saying, for example, that the comparison county was not appropriate for one reason or another. Extreme care would be needed to phrase the legislative language and necessary implementing regulations so that such problems did not occur frequently.

Finally, it would be hard to satisfy the third item under Federal administrative requirements. A comprehensive empirical analysis, conducted by the Advisory Commission for Intergovernmental Relations, 1/ showed that tax burdens in Federal-land counties and similar counties without Federal land generally are comparable now. Replacing the present system with one based on this approach would, in effect, increase the administrative requirements and costs to make roughly the same payments that are made now.

Thus, although comparable tax burden may be a feasible method, it cannot be considered a reasonable alternative.

ILLUSTRATION

This section provides a simplified, hypothetical example of what payments might be to three counties under the present system and under several of the alternatives discussed in the preceding section.

This example is included for illustrative purposes only. The information is based on three actual counties, each of which has a substantial number of entitlement acres. The counties are referred to only as County A, County B, and County C. County A illustrates a very wealthy county, most

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1/"The Adequacy of Federal Compensation to Local Governments for Tax Exempt Federal Lands," Advisory Commission on Intergovernmental Relations, Washington, D.C., July 1978.

of whose entitlement acres are in timber. County B illustrates a relatively poor county with some timber, some grazing, and some mineral leasing receipts. It had the largest Public Law 94-565 payments of the three counties. County C is better off than County B and has high mineral leasing receipts. The results are depicted in table 9.

The data in this illustration should not be used for comparisons because they represent different time periods. For example, the population figures are estimates available from the Bureau of Census as of July 1, 1976. The "Status Quo" and "Tax Equivalency" payments are for fiscal year 1977. The receipt-sharing figures are monies actually returned to the counties in question, not the total receipts earned by these lands. The flat fee of $0.65 per acre is arbitrary but is very close to total amount of fiscal year 1978 payments divided by total number of entitlement acres. It was impossible to make any kind of reasonable estimates for the "Fee for Service" or "Fiscal Impact of Federal Ownership" options. The payments listed under the final two options, "Imposed Expenditures" and "Comparable Tax Burden" are not as reliable as other figures in the table. They are based upon the difference between the corresponding numbers for the States containing the counties and the national average figures for calendar year 1976 data.

TABLE 9

ILLUSTRATION OF PAYMENTS TO THREE COUNTIES FOR VARIOUS POLICY OPTIONS

	COUNTY A	COUNTY B	COUNTY C
POPULATION	81,100	156,100	31,300
ENTITLEMENT ACRES	1,754,000	2,667,000	4,393,000
PRESENT STATUS QUO	$36,188,000	$1,148,000	$880,000
TAX EQUIVALENCY	$1,836,000	$187,000	$635,000
FEE OF 65 CENTS PER ACRE	$1,140,000	$1,734,000	$2,856,000
RECEIPT SHARING BEFORE 1976	$36,085,000	$295,000	$304,000
RECEIPT SHARING PLUS FEE OF 15 CENTS PER ACRE	$36,348,000	$695,000	$963,000
FEE FOR SERVICE	IMPOSSIBLE TO ESTIMATE	IMPOSSIBLE TO ESTIMATE	IMPOSSIBLE TO ESTIMATE
FISCAL IMPACT OF FEDERAL OWNERSHIP	IMPOSSIBLE TO ESTIMATE	IMPOSSIBLE TO ESTIMATE	IMPOSSIBLE TO ESTIMATE
IMPOSED EXPENDITURES	$13,300,000	$36,215,000	$13,459,000
COMPARABLE TAX BURDEN	$5,434,000	$936,000	$2,692,000

TABLE 10

EVALUATING FEDERAL LAND PAYMENT OPTIONS

CRITERIA \ OPTIONS	TAX EQUIVALENCY	FEE PER ACRE	RECEIPT SHARING	RECEIPT SHARING PLUS FEE PER ACRE	FEE FOR SERVICE	FISCAL IMPACT OF FEDERAL OWNERSHIP	IMPOSED EXPENDITURES	COMPARABLE TAX BURDEN
1. LEGISLATIVE REQUIREMENTS								
a. Plan related to program intent?	YES	NO	NO	SOMEWHAT	SOMEWHAT	YES	YES	YES
b. Congressional intent clear?	MODERATELY DIFFICULT	VERY EASY	YES	NEEDS CAREFUL WORDING	NEEDS CAREFUL WORDING	VERY DIFFICULT	VERY DIFFICULT	VERY DIFFICULT
2. UNIFORMITY								
a. Payments determined uniformly?	YES	DEPENDS UPON PAYMENT SCHEDULE	NO	DEPENDS UPON PAYMENT PLAN	YES	YES	YES	YES
b. Consistent principles and procedures?	YES	YES	YES	YES	YES	YES	YES	YES
3. CONGRESSIONAL CONTROL								
a. Budgetary control maintained?	DEPENDS UPON IMPLEMENTATION	YES	NO	RECEIPT SHARING NO FEE YES	DEPENDS UPON IMPLEMENTATION	PROBABLY NOT	PROBABLY NOT	PROBABLY
b. Manipulation of payments possible?	DEPENDS UPON IMPLEMENTATION	NO	NO	NO	DEPENDS UPON IMPLEMENTATION	PROBABLY NOT	PROBABLY NOT	PROBABLY NOT
4. FEDERAL ADMINISTRATIVE REQUIREMENTS								
a. Data available on time?	YES	YES	YES	YES	PROBABLY	NO	NO	PERHAPS
b. Audit authority identified?	YES	YES	YES	YES	YES	YES	YES	YES
c. Economical and easy to administer?	PROBABLY COSTLY	VERY EASY AND ECONOMICAL TO ADMINISTER	YES	YES	PROBABLY COSTLY	NO	NO	NO
5. RECIPIENTS' ADMINISTRATIVE REQUIREMENTS								
a. Advance payment estimates provided?	VERY LIKELY	YES	NO	NO	YES	NO	NO	NO
b. Payments timely?	YES	YES	NO	RECEIPT SHARING NO FEE YES	YES	YES	YES	YES
c. Payments stable?	DEPENDS UPON STABILITY OF TAXES	YES	NO	NO	DEPENDS UPON SERVICES PROVIDED	PROBABLY	PROBABLY	PROBABLY

CHAPTER 5

CONCLUSIONS AND RECOMMENDATIONS

In chapter 2 we concluded that changes are needed in Federal land-payment programs because current payment methods do not serve the Congress' principal purpose for implementing the payment programs. For instance, even though the Congress intended that payment programs reimburse States and counties for the economic burdens of tax-exempt Federal land, many payments are not based on the amount of lost taxes. Instead, most programs pay a percentage of the revenue generated annually from the Federal lands, rather than on the basis of equivalent taxes that would have been paid if the land were privately owned, and are permanently authorized without payment limits. Because the percentages (from 5 to 90 percent) paid by the various programs bear no relationship to tax equivalency, States and counties do not receive equitable payments. Many States and counties are overpaid compared to tax equivalency, while others receive little or no payment.

In chapter 4, we explored alternative methods, such as a fee per acre, for determining the amount of Federal land payments. Since standards for measuring a program's effectiveness and equitableness must relate to the program's intent, we have concluded that a necessary first step for selecting a payment method is to decide on the reason or intent of the program. Thus, the Congress should either make the payment method for tax-exempt lands match the primary rationale of reimbursement for tax immunity of these lands or clarify the rationale for making payments. In addition, the method of payment selected should meet the payment criteria discussed in chapter 4 to the maximum extent feasible. The payment methods which might be used to compensate local governments for the presence of Federal land and the reasons for making payments are shown below.

Program rationale	Payment method
Tax immunity	Tax equivalency
Partnership	Receipt sharing
Cost incurred	Fee for services
Impact payments	Fiscal impact and imposed expenditures
Compromise to meet payment obligation through simple administrative method	Fee per acre

We believe the most logical rationale for making payments is tax equivalency. We therefore recommend that the Congress change existing laws to require computation of payments on a strict tax equivalency basis. Such changes should eliminate the permanent earmarking of receipts, set an expiration date on program authorization, and require periodic appropriation action. To lessen the impact to those counties that currently receive large receipt-sharing payments, the phasing out of these programs should be done over several years.

There are several ways to determine the amount of tax equivalency payments. Each one involves a different mix of individual Federal control and would require a different degree of Federal administrative effort. Congress would control the total amount appropriated each year.

Complete Federal administration

The Federal Government could determine the amount of tax equivalency payments to be made for all Federal land. Such a plan would retain maximum control in the Federal Government. However, it would entail a great Federal administrative effort to assess the 45 percent of Federal lands located in States that do not have statewide assessment standards.

Payment amounts determined by local governments with Federal oversight

Local governments could submit a proposed tax equivalency payment to the Federal Government along with information supporting the accuracy of the estimate. Federal control over payments would be retained through assigning oversight and evaluation responsibilities to a Federal agency, which would be authorized to modify the amounts billed.

Payment amounts determined by local governments with limited Federal control

The Federal Government could submit entirely to the procedures of local taxation. As with other property owners, the Federal Government would have the right to appeal local assessments to local and State boards of review and courts when the Government concluded the local assessment was inaccurate. This would result in a minimum Federal control and a minimum Federal administrative effort.

If the Congress does not want to establish a payment program based on tax equivalency because of the administrative and legislative complications, it may wish to choose a flat-payment-per-acre option. With the exception of tax equivalency, we favor this option over any other because it would be easy to administer and control.

RECOMMENDATIONS TO THE CONGRESS REGARDING PUBLIC LAW 94-565

If the Congress eliminates or amends Public Law 94-565 by adopting a tax equivalency basis for payments or another alternative presented in chapter 4, further action may not be required. If, however, the Congress decides to continue receipt-sharing payments and acreage payments under Public Law 94-565, the Congress should take action to correct fundamental weaknesses in Public Law 94-565. The weaknesses in the law that allow States to influence the size of payments and that require BLM to use State data which has been unreliable could be corrected by amending Public Law 94-565 so that:

--Public Law 94-565 payments are disassociated from receipt-sharing payments; or

--deductions for receipt-sharing payments would be allocated to counties where receipts were earned based on Federal reports; or

--deductions for receipt-sharing payments would be allocated to counties based on population or some other allocation method.

To correct the Public Law 94-565 problem of paying counties a minimum of 10 cents an acre when the county is already being compensated under receipt-sharing programs, we recommend the minimum payment provision be deleted. In addition, we recommend that Congress delete special provisions for Oregon and California grant lands and Coos Bay Wagon Road grant lands (section 5 of the act), and include payments under those exempted statutes (section 4 of the act) as deductible payments. This action is necessary to avoid making acreage payments to counties that already receive unusually large receipt-sharing payments under special legislation for revested lands.

APPENDIX I

Federal Payments to States and Counties for Public Land

Statute and Date Enacted	Basis of payment	Administering agency
Statutes providing for admission of new States into Union. (Digest LA)--1802-1958.	5 percent of net proceeds from sale of public lands shared with States in which land located.	Dept. of the Interior (Bureau of Reclamation, BLM)
35 Stat. 251: 16 U.S.C. 500, National Forest Revenues Act (Digest LB)--1908.	25 percent of all monies realized from National Forests.	Dept. of Agriculture (Forest Service)
36 Stat. 557, Arizona and New Mexico Enabling Act (Digest LC)--1910.	3 percent - calculated percent of National Forest revenues is placed in school fund.	Dept. of the Interior (BLM)
39 Stat. 218: 43 U.S.C. 1181f-1181j, Revested Oregon and California RR Grant Lands (Digest LD)--1916.	50 percent of receipts to counties in Oregon.	Dept. of the Interior (BLM)
40 Stat. 1179: 43 U.S.C. 1181f-1, Reconveyed Coos Bay Wagon Road Grant Lands (Digest LB)--1919.	Local tax rates applied to appraised value of lands up to 75 percent of receipts.	Dept. of the Interior (BLM)
41 Stat. 437: 30 U.S.C. 191, Mineral Lands Leasing Act (Digest 27)--1920.	50 percent of receipts except 90 percent to Alaska.	Dept. of the Interior (BLM)
41 Stat. 1063: 16 U.S.C. 810, Federal Water Power Act (Digest LG)--1920.	Percent of power sales.	Federal Power Commission
45 Stat. 1057: 43 U.S.C. 617, Boulder Canyon Project Act (Digest LS)--1928.	Arizona and Nevada each receive $300,000 annually.	Dept. of the Interior (Bureau of Reclamation)

Statute and date enacted	Basis of payment	Administering agency
48 Stat. 58: 16 U.S.C. 831, Tennessee Valley Authority Act (Digest LI)--1933.	Percent of revenue from power sales - amount received by each State based 1/2 on percent power sales in state and 1/2 on percent of book value of TVA property in the State.	Tennessee Valley Authority
48 Stat. 1269: 43 U.S.C. 315, Taylor Grazing Act (Digest LL)--1936.	Percent of grazing fee - 50 percent outside of grazing districts, 12-1/2 percent within grazing districts.	Dept. of the Interior (BLM)
50 Stat. 522: 7 U.S.C. 1012, Bankhead Jones Farm Tenant Act (Digest LM)--1937.	25 percent of set revenue.	Dept. of Agriculture (Forest Service) and Dept. of the Interior (BLM)
50 Stat. 927, 11 designated watersheds under the Dept. of Agriculture (Digest LM)--1954 [sic].	1 percent of purchase price or 1 percent of value when acquired	Dept. of Agriculture (Forest Service)
55 Stat. 650: 35 U.S.C. 761 t-1, Ting Corps of Engineers (Digest LM) --1961 [sic].	25-75 percent of gross revenues.	Dept. of the Army (Corps of Engineers)
57 Stat. 14: 16 U.S.C. 835, Columbia River Basin Project Act (Digest LL)--1937. --1961 [sic].	Result of negotiation between the Secretary and local officials.	Dept. of the Interior (Bureau of Reclamation)
61 Stat. 681: 30 U.S.C. 601-03, Material Disposal Act (Digest LQ)--1947.	Interior - acres percent as sales of public lands. Agriculture--percent will depend on statutes under which land is administered. U.S.C. statutes applies to OMB lands. Coos Bay statute applies to Coos Bay Lands.	Dept. of the Interior (BLM), Department of Agriculture

APPENDIX I

Statute and date enacted	Basis of payment	Administering agency
61 Stat. 915: 30 U.S.C. 355, Mineral Leasing Act For Acquired Lands (Digest LX)--1947.	Percent shared varies in the same manner as prescribed for other receipts from lands affected by the lease.	Dept. of the Interior (BLM)
62 Stat. 568: 16 U.S.C. 577g, Superior National Forest ("DRA") (Digest LQ)--1948.	3/4 of 1 percent of the appraised value.	Dept. of Agriculture (Forest Service)
64 Stat. 849: 16 U.S.C. 406d-3, Grand Teton National Park (Digest LO)--1950.	Year of acquisition and next 7 years full taxes paid; next 20 years declining 3 percent each year. May not exceed 23 percent of receipts of Park in any one year.	Dept. of the Interior (Park Service)
64 Stat. 1101: 20 U.S.C. 237, Educational Impact Grants (Public Law 374) (Digest LY)--1950.	Assessed value all property in school district (10 percent must be federally owned).	Department of Health, Education and Welfare (Office of Education)
68 Stat. 93: 33 U.S.C. 986, St. Lawrence Seaway Act (Digest LY)--1954.	Based on local tax rates.	Dept. of Transportation
69 Stat. 719, Trinity River Basin Project (Digest LY)--1955.	Payment must equal lost taxes.	Dept. of the Interior (Bureau of Reclamation)
69 Stat. 721: 40 U.S.C. 471, Payments on RFC Property (Digest LY)--1955.	Local tax rate.	GSA and other "holding" agencies

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Statute and date enacted	Basis of payment	Administering agency
74 Stat. 1024: 43 U.S.C. 852, Mineral Leasing on State selected indemnity lands (Digest LAA)--1960.	19 percent of rents and royalties on the selected lands.	Dept. of the Interior (BLM)
78 Stat. 701: 16 U.S.C. 715s, National Wildlife Refuge Act (Digest LAB)--1964.	Public domain 25 percent of revenue. Acquired land 25 percent revenue or 3/4 of 1 percent of appraised value.	Dept. of the Interior (Bureau of Sport Fisheries and Wildlife)
78 Stat. 850: 16 U.S.C. 695m, Klamath National Wildlife Refuge Act (Digest LAC)--1964.	18-25 percent of set revenues received from leasing of lands not to exceed 50 percent of taxes levied on similar private lands.	Dept. of the Interior (Bureau of Reclamation
30 USC 281.	Mineral lease from potash sales - 50 percent to States.	Dept. of the Interior (BLM)
31 USC 1601, Public Law 94-565 (October 20, 1976).	Payments up to $0.75 an acre for entitlement lands subject to a population ceiling.	Dept. of the Interior (BLM)

Source: Hearings before the Subcommittee on Energy and the Environment of the Committee on Interior and Insular Affairs, House of Representatives, 94th Congress, First Session on H.R. 9719, pages 185-189.

Data provided by the Bureau of Land Management.

U.S. Code.

U.S. Statutes at Large.

Number of States Reporting A Pass Through to Counties of Payments Received Under Acts Specified in Section 4, PL 94-565

Provision of law	Federal agency making payment	Government unit for which payments are earmarked	Number of States receiving payment	Number of states reporting pass through to counties	Number of States reporting no pass through
1. Act of May 23, 1908, authorizing Forest revenue payments (35 Stat. 260, 16 USC 500).	USFS	County	40	40	0
2. Enabling Act of June 20, 1910, New Mexico and Arizona (36 Stat. 557).	USFS	State	2	1	1
3. Section 35 of the Act of February 25, 1920, commonly known as Mineral Lands Leasing Act. (41 Stat. 450; 30 USC 191).	BLM	State	23	10	13
4. Section 17 of Federal Power Act (41 Stat. 1072; 16 USC 810).	FPC	State	26	0	26

APPENDIX II

5.	Section 10 of the Taylor Grazing Act (48 Stat. 1273; 43 USC 315).	BLM	County	16	14	2
6.	Section 33 of the Bankhead Jones Farm Tenant Act (50 Stat. 526; USC 1012).	BLM USFS	County	25	25	0
7.	Section 5, Act of June 22, 1948, to safeguard areas in Superior National Forest, State of Minnesota (62 Stat. 570; 16 USC 577 g).	USFS	County	1	1	0
8.	Act of June 25, 1956, to amend the Act of June 22, 1948 (70 Stat. 326; 16 USC 577 g-1).	USFS	County	1	1	0
9.	Section 6 of the Mineral Leasing Act for acquired lands (61 Stat. 915; 30 USC 355).	BLM	State	23	10	13
10.	Material Disposal Act - Sec. 3 (61 Stat. 681; 30 USC 603).	BLM	State	14	1	13

Source: Department of Interior Auditors, U.S. Code, U.S. Statutes at Large

APPENDIX II

APPENDIX III

Fiscal Year 1978 Federal Land Payments

State	Total payment (000 omitted)
Alabama	$ 823
Alaska	8,240
Arizona	13,508
Arkansas	3,902
California	66,099
Colorado	25,716
Connecticut	5
Delaware	5
District of Columbia	5
Florida	2,652
Georgia	1,394
Hawaii	23
Idaho	24,158
Illinois	331
Indiana	278
Iowa	128
Kansas	828
Kentucky	959
Louisiana	2,943
Maine	78
Maryland	135
Massachusetts	151
Michigan	2,353
Minnesota	2,377
Mississippi	4,693
Missouri	3,236
Montana	23,646

Fiscal Year 1978 Federal Land Payments

State	Total payment (000 omitted)
Nebraska	$ 391
Nevada	8,841
New Hampshire	643
New Jersey	139
New Mexico	65,908
New York	26
North Carolina	1,224
North Dakota	1,813
Ohio	338
Oklahoma	4,677
Oregon	202,290
Pennsylvania	606
Puerto Rico	20
Rhode Island	1
South Carolina	1,367
South Dakota	2,698
Tennessee	726
Texas	2,444
Utah	16,886
Vermont	297
Virginia	1,448
Virgin Islands	16
Washington	32,186
West Virginia	881
Wisconsin	1,439
Wyoming	74,515
Total	$610,488

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